

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

TAMMY KITZMILLER, et al. : **Case Number: 04-CV-2688**
: **Judge Jones**
: **(Filed electronically)**
vs. :
:
DOVER AREA SCHOOL DISTRICT; DOVER : :
AREA SCHOOL DISTRICT BOARD OF : **MOTION FOR**
DIRECTORS : **RECONSIDERATION**

MOTION OF JOSEPH MALDONADO AND HEIDI BERNHARD-BUBB FOR
RECONSIDERATION OF COURT ORDER DATED AUGUST 2, 2005

AND NOW, come Joseph Maldonado, a non-party subpoenaed witness, and Heidi Bernhard-Bubb, a non-party subpoenaed witness, by and through their Attorneys, the **BENNLAWFIRM**, and submit the within Motion for Reconsideration pursuant to Middle District Local Rule 7.10, and in support thereof aver the following:

1. Joseph Maldonado (“Maldonado”) is an adult individual and an independent contractor correspondent for the York Daily Record, a newspaper of general circulation in and around York County, Pennsylvania, with offices located at 122 South George Street, York, York County, Pennsylvania.
2. Heidi Bernhard-Bubb (“Bernhard-Bubb”), is an adult individual and, at all relevant times hereto, an independent contractor correspondent for The York Dispatch, a newspaper of general circulation in and around York County, Pennsylvania, with offices located at 205 North George Street, York, York County, Pennsylvania.

3. Maldonado and Bernhard-Bubb had been served with Subpoenas by counsel for the Defendants in the above captioned case to appear and testify at deposition on June 15, 2005 in Dover, Pennsylvania.
4. The parties agreed to stay the depositions and Maldonado and Bernhard-Bubb thereafter filed a Motion to Quash or for Protective Order on June 16, 2005. (doc 80).
5. This Court conducted a hearing on July 14, 2005.
6. On August 2, 2005, this Honorable Court issued a Memorandum Opinion and Order (doc. 115) disposing of, inter alia, the Motion to Quash filed by Maldonado and Bernhard-Bubb.
7. The Order of the Court provided, in applicable part, that "Maldonado and Bernhard-Bubb may be deposed with regard to what they perceived, saw, and heard at Dover Area School District public meetings; however, the subject depositions are limited in that the Reporters may not be questioned concerning any confidential sources." Trial Court Order, p. 20-21, paragraph 1 (a).
8. Maldonado and Bernhard-Bubb request that this Court reconsider paragraph 1 (a) of its Order in light of Parsons v. Watson, 778 F.Supp. 214 (D. Del. 1991), McMenamin v. Tartaglione, 139 Pa. Commw. 269, 590 A.2d 802 (1991) and other case law cited in their Memorandum of Law filed contemporaneously with this Motion, as well as the arguments set forth in the said Memorandum of Law.

WHEREFORE, Maldonado and Bernhard-Bubb respectfully request that the Court reconsider paragraph 1(a) of its August 2, 2005 Order in light of McMenamin, Parsons and the case law of other circuits, apply the Riley test to the testimony sought by Defendants and hold that the Motion to Quash the deposition subpoenas of Defendants be granted because many other sources for the requested information exist. In the alternative, Maldonado and Bernhard-Bubb would respectfully request that the Court modify paragraph 1(a) of its Order of August 2, 2005 to limit the testimony of Maldonado and Bernhard-Bubb solely for purposes of verifying the accuracy of the statements published in the relevant articles, which would be limited to what they saw and heard.

Respectfully submitted,
BENNLAWFIRM

Date: August 11, 2005

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CERTIFICATE OF SERVICE

I, Christian J. Dabb, Esquire, hereby certify that on this 11th day of August, 2005, I served a true and correct copy of the foregoing “Motion for Reconsideration” upon the following counsel by the Middle District ECF system and other counsel of record by the Middle District ECF system:

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